

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 350 Session of
2019

INTRODUCED BY LEACH, STREET, FARNESE AND TARTAGLIONE,
OCTOBER 31, 2019

REFERRED TO AGRICULTURE AND RURAL AFFAIRS, OCTOBER 31, 2019

AN ACT

Amending Titles 3 (Agriculture), 18 (Crimes and Offenses) and 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, providing for adult-use cannabis and establishing the Adult-Use Cannabis Grant Program and the Adult-Use Cannabis Fund; in criminal history record information, further providing for expungement; in sentencing, providing for commutation and dismissal of cannabis-related offenses; and imposing penalties.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Part I of Title 3 of the Pennsylvania Consolidated Statutes is amended by adding a chapter to read:

CHAPTER 10

ADULT-USE CANNABIS

Subchapter

- A. Preliminary Provisions
- B. Regulation of Use
- C. Permits
- D. Educational Instruction and Exam
- E. Adult-Use Cannabis Grant Program
- F. Interest-Free Loans

- G. Tax on Adult-Use Cannabis
- H. Adult-Use Cannabis Fund
- I. Colleges and Universities
- J. Tracking System
- K. Administration and Penalties

SUBCHAPTER A

PRELIMINARY PROVISIONS

Sec.

1001. Short title of chapter.

1002. Declaration of policy.

1003. Definitions.

§ 1001. Short title of chapter.

This chapter shall be known and may be cited as the Adult-Use Cannabis Act.

§ 1002. Declaration of policy.

The General Assembly finds and declares that:

(1) In 2017, 20,392 adults and 2,269 juveniles were charged in this Commonwealth with low-level cannabis possession offenses according to the Pennsylvania Uniform Crime Reporting System.

(2) Police arrest 55 adults every day for simple cannabis possession in this Commonwealth.

(3) African Americans are eight times more likely than individuals who are white to be arrested for cannabis possession in this Commonwealth, even though usage rates are similar.

(4) A simple possession conviction is punishable by up to 30 days of incarceration and a \$500 fine for less than an ounce of cannabis and up to one year of incarceration and a

\$5,000 fine if arrested with over an ounce for personal use.

(5) A simple cannabis possession conviction prevents individuals from getting certain jobs.

(6) The Commonwealth spends \$46,000,000 annually to prosecute residents for possession of less than an ounce of cannabis.

(7) It is the intent of the General Assembly to end the Commonwealth's prohibition of cannabis, help individuals who have been harmed by cannabis prohibition and establish and tax a regulated and thriving cannabis industry in this Commonwealth.

§ 1003. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Applicant." A person that applies or has applied to the department for a permit.

"Business interest." A stake in, employment relationship with or other interest in a person, including an individual, corporation, partnership, association, trust or other entity, or any combination thereof, that holds a permit issued by the department. The term does not include:

(1) Interest held by a financial institution in a permittee.

(2) Interest held by a trade association in a permittee.

(3) A de minimis interest held by a person, including an individual, corporation, partnership, association, trust or other entity, or any combination thereof, in a permittee.

"Cannabis."

(1) Any of the following:

(i) all parts of a plant of the genus cannabis, whether growing or not, including the seeds of the plant;

(ii) the resin extracted from any part of a plant of the genus cannabis, including concentrated cannabis; or

(iii) a compound, manufacture, salt, derivative, mixture or preparation of a plant of the genus cannabis, its seeds or resin.

(2) The term does not include industrial hemp as defined under section 702 (relating to definitions) or its derivatives or cannabidiol (CBD) oil from hemp.

"Change in control." The acquisition by a person or group of persons acting in concert of a controlling interest in an applicant or permittee either all at one time or over the span of a consecutive 12-month period.

"Controlling interest." The following:

(1) For a publicly traded entity, voting rights that entitle a person to elect or appoint one or more of the members of the board of directors or other governing board or the ownership or beneficial holding of 5% or more of the securities of the publicly traded entity.

(2) For a privately held entity, the ownership of any security in the entity.

"Deliverer." A person, including an individual, corporation, partnership, association, trust or other entity, or any combination thereof, that holds a permit issued by the department to deliver cannabis.

"Department." The Department of Agriculture of the Commonwealth.

"Dispensary." A person, including an individual, corporation, partnership, association, trust or other entity, or any combination thereof, that holds a permit issued by the department to dispense cannabis.

"Financial backer." An investor, mortgagee, bondholder, note holder or other source of equity, capital or other assets. The term does not include a financial institution.

"Financial institution." A bank, national banking association, bank and trust company, trust company, savings and loan association, building and loan association, mutual savings bank, credit union or savings bank.

"Fund." The Adult-Use Cannabis Fund established under Subchapter H (relating to Adult-Use Cannabis Fund).

"Grant program." The Adult-Use Cannabis Grant Program established under Subchapter E (relating to Adult-Use Cannabis Grant Program).

"Grower." A person, including an individual, corporation, partnership, association, trust or other entity, or any combination thereof, that holds a permit issued by the department to grow cannabis.

"Homegrower." An individual who holds a permit issued by the department to grow cannabis in the person's home for personal use.

"Microgrower." A person who holds a permit issued by the department to grow cannabis in the person's home with the intent to sell the cannabis to a processor or dispensary.

"Permit." An authorization issued by the department to conduct activities under this chapter.

"Permittee." A person, including an individual, corporation,

partnership, association, trust or other entity, or any combination thereof, that holds a permit issued by the department.

"Principal." An officer, director or person that directly owns a beneficial interest in or ownership of the securities of an applicant or permittee, a person that has a controlling interest in an applicant or permittee or that has the ability to elect the majority of the board of directors of an applicant or permittee or otherwise control an applicant or permittee. The term does not include a financial institution.

"Processor." A person, including an individual, corporation, partnership, association, trust or other entity, or any combination thereof, that holds a permit issued by the department to process cannabis.

"Secretary." The Secretary of Agriculture of the Commonwealth.

"Security." As defined in section 102(t) of the act of December 5, 1972 (P.L.1280, No.284), known as the Pennsylvania Securities Act of 1972.

"Seed-to-sale tracking system." An electronic inventory tracking system accessible by the department which electronically tracks cannabis possessed by permittees.

"Use lounge." A space, determined by the department, in which individuals may use cannabis which the individuals have brought to the space. The space may be public or private and may be owned by a person, including an individual, corporation, partnership, association, trust, government or other entity, or any combination thereof. The space may be shared with, attached to or adjacent to a dispensary, in which case the dispensary may

require that patrons of the use lounge use only cannabis sold by the dispensary while on the use lounge's premises.

SUBCHAPTER B

REGULATION OF USE

Sec.

1004. Adult-use of cannabis.

§ 1004. Adult-use of cannabis.

(a) General rule.--An individual over 21 years of age may engage in the use of cannabis in this Commonwealth.

(b) Using cannabis.--The use of cannabis includes, but is not limited to, eating cannabis, smoking cannabis, vaporizing cannabis, rubbing cannabis on one's skin and any other method of consuming cannabis.

(c) Public use prohibited.--Use of cannabis in public is prohibited. This subsection shall not prohibit a use lounge from allowing cannabis to be brought onto or used on its premises by an individual over 21 years of age.

SUBCHAPTER C

PERMITS

Sec.

1005. Issuance of permits.

1006. Duty to report.

1007. Processing of permit applications and renewals.

1008. Suspension or revocation.

1009. Nontransferability and revocability.

1010. Regulation of industry.

§ 1005. Issuance of permits.

(a) General rule.--The department may issue a permit to an applicant that has applied to the department to act as any of

the following:

- (1) Grower.
- (2) Homegrower.
- (3) Microgrower.
- (4) Processor.
- (5) Dispensary.
- (6) Deliverer.
- (7) Use lounge.

(b) Form.--The application for a permit under this section shall be on a form prescribed by the department.

(c) Application for growers, processors and dispensaries.--
An application submitted by a grower, processor or dispensary shall include:

- (1) Verification of all principals, operators and financial backers.
- (2) A description of responsibilities as a principal, operator or financial backer.
- (3) Any release necessary to obtain information from governmental agencies, employers and other organizations.
- (4) Details relating to a similar license, permit or other authorization obtained in another jurisdiction, including any suspensions, revocations or discipline in that jurisdiction.
- (5) A statement that the applicant:
 - (i) Possesses the ability to obtain in an expeditious manner the right to use sufficient land, buildings and other premises and equipment to properly carry on the activity described in the application and any proposed location for a facility.

(ii) Is able to maintain effective security and control to prevent diversion, abuse and other illegal conduct relating to cannabis.

(iii) Is able to comply with all applicable laws and regulations relating to activities under this chapter.

(6) The name, residential address and title of each financial backer and principal associated with the applicant. Each individual, or lawful representative of a legal entity, shall submit an affidavit with the application providing any position of management or ownership during the preceding 10 years of a controlling interest in any other business, located inside or outside this Commonwealth, manufacturing or distributing controlled substances.

(7) Notice that a false statement made in the application is punishable under the applicable provisions of 18 Pa.C.S. Ch. 49 (relating to falsification and intimidation).

(8) A description of the location at which and space in which the applicant intends to operate. If the applicant is applying for a grower permit, the applicant shall explain whether it will grow cannabis in an indoor space or an outdoor space.

(9) Any other information the department may require.

(d) Application for homegrowers.--An application submitted by a homegrower shall include:

(1) Any release necessary to obtain information from governmental agencies, employers and other organizations.

(2) Details relating to a similar license, permit or other authorization obtained in another jurisdiction,

including any suspensions, revocations or discipline in that jurisdiction.

(3) A statement that the applicant is able to comply with all applicable laws and regulations relating to activities under this chapter.

(4) Notice that a false statement made in the application is punishable under the applicable provisions of 18 Pa.C.S. Ch. 49.

(5) Any other information the department may require.

(e) Application for microgrowers.--An application submitted by a microgrower shall include:

(1) Any release necessary to obtain information from governmental agencies, employers and other organizations.

(2) Details relating to a similar license, permit or other authorization obtained in another jurisdiction, including any suspensions, revocations or discipline in that jurisdiction.

(3) A statement that the applicant is able to comply with all applicable Commonwealth laws and regulations relating to activities under this chapter.

(4) Notice that a false statement made in the application is punishable under the applicable provisions of 18 Pa.C.S. Ch. 49.

(5) A description of the location at which and space in which the applicant intends to operate.

(6) Any other information the department may require.

(f) Application for deliverers.--An application submitted by a deliverer shall include:

(1) Verification of all principals, operators and

financial backers.

(2) A description of responsibilities as a principal, operator or financial backer.

(3) Any release necessary to obtain information from governmental agencies, employers and other organizations.

(4) Details relating to a similar license, permit or other authorization obtained in another jurisdiction, including any suspensions, revocations or discipline in that jurisdiction.

(5) A statement that the applicant is able to comply with all applicable Commonwealth laws and regulations relating to activities under this chapter.

(6) Notice that a false statement made in the application is punishable under the applicable provisions of 18 Pa.C.S. Ch. 49.

(7) Any other information the department may require.

(g) Application for use lounges.--An application for a use lounge shall include:

(1) Verification of all principals, operators and financial backers.

(2) A description of responsibilities as a principal, operator or financial backer.

(3) Any release necessary to obtain information from governmental agencies, employers and other organizations.

(4) Details relating to a similar license, permit or other authorization obtained in another jurisdiction, including any suspensions, revocations or discipline in that jurisdiction.

(5) A statement that the applicant:

(i) Possesses the ability to obtain in an expeditious manner the right to use sufficient land, buildings and other premises and equipment to properly carry on the activity described in the application and any proposed location for a facility.

(ii) Is able to maintain effective security and control to prevent diversion, abuse and other illegal conduct relating to cannabis.

(iii) Is able to comply with all applicable laws and regulations relating to activities under this chapter.

(6) The name, residential address and title of each financial backer and principal associated with the applicant. Each individual, or lawful representative of a legal entity, shall submit an affidavit with the application providing any position of management or ownership during the preceding 10 years of a controlling interest in any other business, located inside or outside this Commonwealth, manufacturing or distributing controlled substances.

(7) Notice that a false statement made in the application is punishable under the applicable provisions of 18 Pa.C.S. Ch. 49.

(8) A description of the location at which and space in which the applicant intends to operate.

(9) Any other information the department may require.

§ 1006. Duty to report and submit to inspection.

An applicant for a permit under section 1005 (relating to issuance of permits) and a permittee shall be under a continuing duty to do all of the following:

(1) Report to the department any change in facts or

circumstances reflected in the application or permit or any newly discovered or occurring fact or circumstance which is required to be included in the application, including a change in control of the applicant or permittee.

(2) Submit to announced or unannounced inspections by the department of the facilities related to the application or the permit.

§ 1007. Processing of permit applications and renewals.

(a) General rule.--The department may issue or deny a permit under section 1005 (relating to issuance of permits). In deciding whether to issue or deny a permit, the department shall consider only if:

(1) The application is truthful.

(2) The application is complete.

(3) The application fulfills the requirements of this chapter.

(4) The applicant has a previous history in this Commonwealth or in another jurisdiction of suspension, revocation or discipline related to a license, permit or other authorization that is similar to the permit for which the applicant is applying.

(b) Notice of denial.--If the department denies an application for a permit, the department shall notify the applicant in writing within 30 days of the denial and provide to the applicant an explanation of the department's basis for the denial.

(c) Previous denial.--A previous denial by the department of an application for a permit shall not preclude an applicant from applying for another permit.

(d) Other permit.--In deciding whether to issue or deny a permit application, the department may not consider if the applicant holds a permit issued by the Department of Health under the act of April 17, 2016 (P.L.84, No.16), known as the Medical Marijuana Act.

(e) Permit renewal.--The department shall create a permit renewal application and renew a permit unless the department determines that the applicant is unlikely to comply with the applicable laws of this Commonwealth.

(f) Processor tiers.--In issuing a processor permit, the department shall determine if the permit being issued is a Tier A Processor Permit or a Tier B Processor Permit and notify the applicant of the department's determination.

§ 1008. Suspension or revocation.

The department may suspend or revoke a permit if the permit holder intentionally, knowingly, recklessly or negligently failed to comply with any Federal, State or local laws, regulations orders or ordinances.

§ 1009. Nontransferability and revocability.

The following shall apply:

(1) A permit issued under this chapter shall be nontransferable.

(2) The issuance or renewal of a permit shall be a revocable privilege.

§ 1010. Regulation of industry.

(a) Growers.--The following shall apply to permits for growers:

(1) A grower applicant shall submit an application and an application fee of \$100,000 to the department. The permit

may be renewed annually for a \$10,000 renewal fee.

(2) An individual may not intentionally or knowingly have a business interest in more than one grower in this Commonwealth.

(3) A grower may grow cannabis in an outdoor space or an indoor space. A grower may not simultaneously grow cannabis in an indoor space and an outdoor space.

(4) The total size of a grower's crop at any given time shall be no larger than 150,000 square feet of outdoor space or 60,000 square feet of indoor space unless the department modifies these limits under subsection (i).

(5) A grower may sell cannabis to processors and dispensaries.

(6) A grower shall maintain effective security, surveillance, recordkeeping, tracking and control to prevent diversion, abuse and other illegal conduct relating to cannabis.

(7) The buildings used by the grower to conduct business operations shall within one year of becoming operational receive a silver, gold or platinum certification from the United States Green Building Council's Leadership in Energy and Environmental Design Green Building Rating System or two, three or four Globes under the Green Building Initiative's Green Globes Green Building Rating System.

(8) A grower shall disclose to a purchaser of the grower's cannabis information about the cannabis being purchased as required by the department.

(9) A grower may grow cannabis.

(b) Microgrowers.--The following shall apply to permits for

microgrowers:

(1) Individuals may not intentionally or knowingly have a business interest in more than one microgrower in this Commonwealth.

(2) A microgrower applicant shall submit an application and an application fee of \$250 to the department. The permit may be renewed annually for a \$250 renewal fee.

(3) A microgrower may grow up to 150 cannabis plants simultaneously unless the department modifies this limit under subsection (i).

(4) A microgrower may only grow cannabis indoors in the home in which the microgrower lives.

(5) A microgrower shall sell all of the cannabis which the microgrower grows to a processor or dispensary or the cannabis shall be destroyed by the microgrower. The cannabis may not be used by the microgrower.

(c) Homegrowers.--The following shall apply to permits for homegrowers:

(1) A homegrower applicant shall submit an application and an application fee of \$50 to the department. The permit may be renewed annually for a \$50 renewal fee.

(2) A homegrower may grow up to 10 cannabis plants simultaneously in the home in which the homegrower lives unless the department modifies this limit under subsection (i). A homegrower may also process his cannabis plants.

(3) The cannabis grown by the homegrower may be transferred for free to any other person that may legally use cannabis under this chapter. A homegrower may not sell or trade the cannabis that the homegrower grows in the

homegrower's home.

(4) The cannabis grown or processed by the homegrower may be used in any private place unless otherwise prohibited.

(5) The cannabis grown or processed by the homegrower may be used in a use lounge unless otherwise prohibited.

(6) An individual may not have more than one homegrower permit.

(d) Processors.--The following shall apply to permits for processors:

(1) Individuals may not intentionally or knowingly have a business interest in more than one processor.

(2) An applicant for a Tier A Processor Permit shall submit an application and an application fee of \$1,000 to the department. The permit may be renewed annually for a \$1,000 renewal fee.

(3) An applicant for a Tier B Processor Permit shall submit an application and an application fee of \$30,000 to the department. The permit may be renewed annually for a \$10,000 renewal fee.

(4) A processor may purchase cannabis from growers and microgrowers.

(5) A processor may sell cannabis to dispensaries.

(6) The buildings used by the processor to conduct business operations shall within one year of becoming operational receive a silver, gold or platinum certification from the United States Green Building Council's Leadership in Energy and Environmental Design Green Building Rating System or two, three or four Globes under the Green Building Initiative's Green Globes Green Building Rating System.

(7) The following shall apply:

(i) A processor holding a Tier A Processor Permit may purchase up to 25 pounds of cannabis on a wholesale basis annually unless the department modifies this limit under subsection (i).

(ii) A processor holding a Tier B Processor Permit may purchase any amount of cannabis on a wholesale basis annually unless the department modifies this limit under subsection (i).

(8) The following shall apply:

(i) A processor holding a Tier A Processor Permit shall maintain minimum security protocols designed to prevent illegal diversion of cannabis.

(ii) A processor holding a Tier B Processor Permit shall maintain effective security, surveillance, recordkeeping, tracking and control to prevent diversion, abuse and other illegal conduct relating to cannabis.

(9) A processor shall disclose to a purchaser of the processor's cannabis information about the cannabis being purchased as required by the department.

(10) A processor may process cannabis.

(e) Dispensaries.--The following shall apply to permits for dispensaries:

(1) A dispensary applicant shall submit an application and an application fee of \$5,000 to the department. The permit may be renewed annually for a \$5,000 renewal fee.

(2) Individuals may not intentionally or knowingly have a business interest in more than three dispensaries. This paragraph does not apply to an individual who:

(i) has a delivery permit; and

(ii) does not have any other permit provided for under this chapter.

(3) A dispensary may employ or contract with a deliverer.

(4) A dispensary may purchase cannabis from growers, processors and microgrowers.

(5) A dispensary may sell cannabis at retail to consumers who are at least 21 years of age.

(6) A dispensary that sells single-use vaporizers shall accept used single-use vaporizers and recycle them. A dispensary may not charge money for accepting single-use vaporizers or for recycling single-use vaporizers.

(7) A dispensary shall utilize a system that effectively recalls products that the dispensary sells to consumers.

(8) The buildings used by the dispensary to conduct business operations shall within one year of becoming operational receive a silver, gold or platinum certification from the United States Green Building Council's Leadership in Energy and Environmental Design Green Building Rating System or two, three or four Globes under the Green Building Initiative's Green Globes Green Building Rating System.

(9) A dispensary may hold a use lounge permit. A dispensary that holds a use lounge permit may operate a use lounge that is shared with, attached to or adjacent to the dispensary, in which case the dispensary may require that patrons of the use lounge use only cannabis sold by the dispensary while on the use lounge's premises.

(10) (i) Notwithstanding any provision of the act of

April 17, 2016 (P.L.84, No.16), known as the Medical Marijuana Act, to the contrary, a dispensary may:

(A) hold a dispensary permit as provided under the Medical Marijuana Act; and

(B) combine the retail environments of its dispensary and medical cannabis dispensary and sell both adult-use cannabis and medical cannabis from the same location, building and point of sale terminal.

(ii) An arrangement under this paragraph shall not preclude a medical cannabis dispensary permittee from its obligations under the Medical Marijuana Act which do not conflict with this act, including, but not limited to, the Medical Marijuana Act's seed-to-sale tracking requirements, testing requirements and taxation requirements.

(11) In addition to any other penalty provided by law, a dispensary shall be liable for civil treble damages for harm caused by inaccurate labeling of cannabis sold by the dispensary due to the dispensary's intentional, knowing, reckless or negligent conduct.

(12) A dispensary shall disclose to a purchaser of the dispensary's cannabis information about the cannabis being purchased as required by the department.

(f) Deliverers.--The following shall apply to permits for deliverers:

(1) A deliverer applicant shall submit an application and an application fee of \$50 to the department. The permit may be renewed annually for a \$50 renewal fee.

(2) A deliverer may be an employee of a dispensary, an

independent contractor doing business with a dispensary or a standalone business.

(3) A deliverer may deliver cannabis from dispensaries to consumers.

(4) A deliverer that is an independent contractor doing business with a dispensary may accept compensation for the deliverer's services from dispensaries.

(5) A deliverer that operates a standalone business may accept compensation for the deliverer's services from consumers.

(6) A deliverer may deliver cannabis from a dispensary to a consumer using any mode of transportation, including any form of public transportation not otherwise prohibited by law. A deliverer may deliver cannabis from a dispensary to a consumer by walking from the dispensary to the consumer.

(g) Use lounges.--A use lounge applicant shall submit an application and an application fee of \$1,000 to the department. The permit may be renewed annually for a \$1,000 renewal fee.

(h) Fee adjustments.--Beginning three years after the effective date of this section, and biennially thereafter, all permit fees and permit renewal fees under this section shall be increased by the department at the rate of inflation as outlined in the Consumer Price Index for All Urban Consumers in the Northeast Region for the most recent 12-month period for which the figures have been reported by the United States Department of Labor, Bureau of Labor Statistics. If the rate of inflation does not increase, all permit fees and permit renewal fees under this section shall remain the same as they were for the previous year. The department shall transmit notice of any fee changes to

the Legislative Reference Bureau for publication in the Pennsylvania Bulletin.

(i) Crop and purchase adjustments.--Beginning three years after the effective date of this section, and biennially thereafter, the department may promulgate regulations to modify the total maximum size of a grower's crop under subsection (a), the total number of plants a microgrower may grow simultaneously under subsection (b), the total number of plants a homegrower may grow simultaneously under subsection (c) and the total amount of cannabis a processor may purchase on a wholesale basis annually under subsection (d) to foster an adult-use cannabis market in this Commonwealth that meets consumer demand and encourages competition among permittees.

SUBCHAPTER D

EDUCATIONAL INSTRUCTION AND EXAM

Sec.

1011. Curriculum.

1012. Exam.

1013. Required instruction and exam.

1014. Locations.

1015. Cost.

§ 1011. Curriculum.

The department shall develop a curriculum providing no less than 20 hours of classroom instruction and no more than 40 hours of classroom instruction to educate prospective participants in the adult-use cannabis industry. The curriculum shall include education on the science of growing, processing and testing cannabis, applicable Federal and State laws relating to cannabis and how to run a small cannabis business in the Commonwealth.

§ 1012. Exam.

The department shall develop an exam to test the knowledge of students who complete the curriculum provided under this subchapter and shall also develop exam-grading criteria to determine if a student learned the curriculum at a satisfactory level as determined by the department.

§ 1013. Required instruction and exam.

To be eligible for a grant under Subchapter E (relating to Adult-Use Cannabis Grant Program) or a loan under Subchapter F (relating to interest-free loans), a grant or loan applicant shall complete the curriculum provided under section 1011 (relating to curriculum) and receive from the department a satisfactory grade or better on the exam provided under section 1012 (relating to exam).

§ 1014. Locations.

The department shall create a geographically diverse network of locations for applicants to complete the instruction and exam requirements under this subchapter, including universities within the State System of Higher Education, State-related institutions, community colleges and private entities.

§ 1015. Cost.

The department may require an applicant to pay a fee of up to \$50 to attend a class under this subchapter and a fee of up to \$50 to take the exam under this subchapter.

SUBCHAPTER E

ADULT-USE CANNABIS GRANT PROGRAM

Sec.

1016. Establishment.

1017. Publication and notice.

1018. Award of grants.

1019. Limitation.

§ 1016. Establishment.

The Adult-Use Cannabis Grant Program is established and shall be administered by the department. Grants provided under the grant program shall be used to provide financial assistance to growers, processors, dispensers and microgrowers who were harmed by the effects of cannabis prohibition prior to the effective date of this section.

§ 1017. Publication and notice.

The department shall transmit notice of the grant program availability to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin.

§ 1018. Award of grants.

The department is authorized to make a grant award to a person who receives a permit under section 1005 (relating to issuance of permits), has a prior cannabis-related criminal conviction, has an annual household income below \$80,000 as adjusted annually by the department for inflation and who meets the requirements of section 1013 (relating to required instruction and exam).

§ 1019. Limitation.

The total amount of grants awarded under section 1018 (relating to award of grants) may not exceed \$2,000,000 annually.

SUBCHAPTER F

INTEREST-FREE LOANS

Sec.

1020. Authorization.

1021. Limitation.

§ 1020. Authorization.

The department is authorized to make interest-free loans to a person who receives a permit under section 1005 (relating to issuance of permits), has a prior cannabis-related criminal conviction, has an annual household income below \$80,000 as adjusted annually by the department for inflation and who meets the requirements of section 1013 (relating to required instruction and exam).

§ 1021. Limitation.

The total amount of loans awarded under section 1020 (relating to authorization) may not exceed \$2,000,000 annually.

SUBCHAPTER G

TAX ON ADULT-USE CANNABIS

Sec.

1022. Imposition of tax.

1023. Additional taxation.

1024. Collection of tax.

1025. Deposit of proceeds.

§ 1022. Imposition of tax.

A tax is imposed at the point-of-sale of cannabis by a dispensary at the rate of 17.5%.

§ 1023. Additional taxation.

The tax imposed under section 1022 (relating to imposition of tax) shall be in addition to the tax imposed under section 202 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

§ 1024. Collection of tax.

A dispensary shall collect the tax under section 1022

(relating to imposition of tax) and remit the tax to the Department of Revenue.

§ 1025. Deposit of proceeds.

The Department of Revenue shall deposit money received under section 1024 (relating to collection of tax) into the fund.

SUBCHAPTER H

ADULT-USE CANNABIS FUND

Sec.

1026. Establishment.

1027. Source of money.

1028. Use of money.

§ 1026. Establishment.

The Adult-Use Cannabis Fund is established as a restricted account in the State Treasury. The money in the fund shall be appropriated on a continuing basis.

§ 1027. Source of money.

Money received under Subchapters C (relating to permits) and G (relating to tax on adult-use cannabis) shall be deposited into the fund.

§ 1028. Use of money.

The money deposited into the fund shall be used as follows:

(1) Nine million dollars shall be distributed to the department annually and used to carry out its duties under this chapter, which include awarding grants under Subchapter E (relating to Adult-Use Cannabis Grant Program) and loans under Subchapter F (relating to interest-free loans).

(2) After consideration of the revenue to be deducted from the fund under paragraph (1), 95% of the revenue remaining in the fund annually shall be distributed to school

districts based on the 2016 basic education funding formula under Article XXV of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949.

SUBCHAPTER I

COLLEGES AND UNIVERSITIES

Sec.

1029. Cannabis grown by colleges and universities.

§ 1029. Cannabis growth by colleges and universities.

A college or university in this Commonwealth may grow and process cannabis for the purpose of offering classes related to the adult-use cannabis industry either as part of the department's educational curriculum under Subchapter D (relating to educational instruction and exam) or for any other class offered at the college or university. The cannabis grown and processed for this purpose must be destroyed and may not be used by any individual. On a form prescribed by the department a college or university that grows or processes cannabis for this purpose must report to the department the amount of cannabis grown or processed and any other information required by the department.

SUBCHAPTER J

TRACKING SYSTEM

Sec.

1031. Prohibition.

§ 1031. Prohibition.

The department may not require that a permittee utilize a seed-to-sale tracking system.

SUBCHAPTER K

ADMINISTRATION AND PENALTIES

Sec.

1032. Enforcement of contracts.

1033. Zoning requirements.

1034. Penalties.

1035. Rules and regulations.

§ 1032. Enforcement of contracts.

The following apply:

(1) Contracts related to the operation of cannabis establishments under this chapter are enforceable.

(2) Contracts entered into by a permittee, its employees or agents as permitted pursuant to a valid permit issued by the department or by those that allow property to be used by a permittee, its employees or agents as permitted pursuant to a valid permit issued by the department, may not be deemed unenforceable on the basis that the actions or conduct permitted pursuant to the permit are prohibited by Federal law.

§ 1033. Zoning requirements.

The following apply:

(1) Indoor growers and processors shall meet the same municipal zoning and land use requirements as other manufacturing, processing and production facilities that are located in the same zoning district.

(2) Outdoor growers shall meet the same municipal zoning and land use requirements as other agricultural facilities that are located in the same zoning district.

(3) Dispensaries and use lounges shall meet the same municipal zoning and land use requirements as other commercial facilities that are located in the same zoning

district.

§ 1034. Penalties.

(a) Criminal diversion of cannabis by permittee.--In addition to any other penalty provided by law, a permittee or an employee, financial backer, operator or principal of a permittee commits a misdemeanor of the first degree if the person intentionally, knowingly or recklessly sells, dispenses, trades, delivers or otherwise provides cannabis to a person that is not lawfully permitted to receive cannabis.

(b) Criminal diversion of cannabis by nonpermittee.--In addition to any other penalty provided by law, a person that is not a permittee or an employee, financial backer, operator or principal of a permittee commits an offense if the person intentionally, knowingly or recklessly provides cannabis to a person that is not lawfully permitted to receive cannabis. The following shall apply:

(1) A first offense under this subsection constitutes a misdemeanor of the second degree.

(2) A second or subsequent offense under this subsection constitutes a misdemeanor of the first degree.

(b.1) Additional criminal offense.--In addition to any other penalty provided by law, a person commits an offense if the person intentionally, knowingly or recklessly grows or processes cannabis in violation of this chapter. The following shall apply:

(1) A first offense under this subsection constitutes a summary offense punishable by a fine of not more than \$75.

(2) A second offense under this subsection constitutes a summary offense punishable by a fine of not more than \$500.

(3) A third or subsequent offense constitutes a misdemeanor of the third degree punishable by a fine of not more than \$5,000, or to imprisonment for not more than three months.

(c) Additional penalties.--

(1) Except as provided under subsections (a) and (b), in addition to any other penalty provided by law, a permittee or an employee, financial backer, operator or principal of any permittee who violates any of the provisions of or regulations promulgated under this chapter:

(i) For a first offense, commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of not more than \$5,000, or to imprisonment for not more than six months.

(ii) For a second or subsequent offense, commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of not more than \$10,000, or to imprisonment for not less than six months nor more than one year, or both.

(2) Civil penalties.--In addition to any other remedy available to the department, the department may assess a civil penalty for a violation of this chapter, regulation promulgated under this chapter or order issued under this chapter. The following shall apply:

(i) The department may assess a civil penalty against a permittee of not more than \$10,000 for each violation and an additional penalty of not more than \$1,000 for each day of a continuing violation.

(ii) In determining the amount of each civil

penalty, the department shall consider the gravity of the violation, the potential harm resulting from the violation to general public, the willfulness of the violation, previous violations, if any, by the permittee being assessed and the economic benefit to the permittee being assessed.

(3) If the department finds that the violation did not threaten the health or safety of the general public and the permittee who committed the violation took immediate action to remedy the violation upon learning of it, the department may issue a written warning in lieu of assessing a civil penalty.

(4) A person that aids, abets, counsels, induces, procures or causes a permittee to violate this chapter, a regulation promulgated under this chapter or an order issued under this chapter shall be subject to a civil penalty provided under this subsection.

(d) Sanctions.--

(1) In addition to the penalties provided under subsection (c)(2) and any other penalty authorized by law, the department may impose the following sanctions:

(i) Revoke or suspend the permit of a person found to be in violation of this chapter, a regulation promulgated under this chapter or an order issued under this chapter.

(ii) Revoke or suspend the permit of a person for conduct or activity or the occurrence of an event that would disqualify the person from receiving the permit.

(iii) Suspend a permit of a person pending the

outcome of a hearing in a case in which the permit could be revoked.

(iv) Order restitution of money or property unlawfully obtained or retained by a permittee.

(v) Issue a cease and desist order.

(2) A person that aids, abets, counsels, induces, procures or causes a permittee to violate this chapter, a regulation promulgated under this chapter or an order issued under this chapter shall be subject to the sanctions provided under this subsection.

(e) Costs of action.--The department may assess against a person determined to be in violation of this chapter, a regulation promulgated under this chapter or an order issued under this chapter the costs of investigation of the violation.

(f) Minor violations.--Nothing in this section shall be construed to require the assessment of a civil penalty or the imposition of a sanction for a minor violation of this chapter if the department determines that the public interest will be adequately served under the circumstances by the issuance of a written warning.

(g) Other restrictions.--This act shall not permit any person to engage in or prevent the imposition of any civil, criminal or other penalty for the following:

(1) Undertaking any task under the influence of cannabis if doing so would constitute negligence, professional malpractice or professional misconduct.

(2) Possessing or using cannabis in a State or county correctional facility, including a facility owned or operated or under contract with the Department of Corrections or the

county which houses inmates serving a portion of their sentences on parole or in other community correction programs. Nothing in this paragraph shall be construed to apply to employees of a facility under this paragraph.

§ 1035. Rules and regulations.

(a) Promulgation.--The department shall promulgate rules and regulations:

(1) Necessary to implement this chapter.

(2) To prevent the sale of cannabis by dispensaries to consumers that has been grown, processed, packaged or otherwise produced using chemicals, including pesticides, that might cause unnecessary harm to a consumer who uses the cannabis.

(3) To require permittees to report data to the department no more frequently than quarterly about the amount of cannabis the permittee has grown, processed, dispensed, sold, delivered and destroyed.

(b) Definition.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Unnecessary harm." Harm that may be prevented through the use of viable alternative growing, processing, packaging or production techniques. The term does not include the harm that is inherent to the use of cannabis.

Section 2. Section 9122 of Title 18 is amended by adding subsections to read:

§ 9122. Expungement.

* * *

(b.2) Automatic expungement of cannabis-related offenses.--

Within one year of the effective date of this subsection, the Administrative Office of Pennsylvania Courts and the Board of Pardons shall transmit to the Pennsylvania State Police central repository the criminal history record information of individuals convicted of cannabis-related offenses or per se cannabis offenses which occurred on or after the day the individual attained 21 years of age. Upon receipt of the criminal history records, the Pennsylvania State Police shall transmit to the court of common pleas of each county the criminal history record information for the individuals convicted of cannabis-related offenses or per se cannabis offenses in that county and the court shall order the expungement of those individuals' criminal history records insofar as they relate to a cannabis-related offense or a per se cannabis offense.

* * *

(g) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Cannabis-related offense." A criminal case for which all of the following apply:

(1) The existence of cannabis in the fact pattern is an element of the offense applied to the case.

(2) The offender's conduct in committing the offense did not cause bodily harm to any individual, not including the offender.

(3) The offender's conduct in committing the offense did not cause damage to the property of any individual, not including the offender.

"Per se cannabis offenses." A criminal case for which all of the following apply:

(1) The existence of cannabis in the fact pattern is an element of the offense applied to the case.

(2) The prosecution did not establish beyond a reasonable doubt that actual impairment caused by cannabis was the proximate cause of:

(i) bodily harm to any individual, not including the offender; or

(ii) damage to the property of any individual, not including the offender.

Section 3. Title 42 is amended by adding a section to read:
§ 9778. Commutation and dismissal of cannabis-related offenses.

(a) Commutation of sentence.--A court of this Commonwealth or other court of record having jurisdiction shall, after due hearing, commute the sentence of an individual serving a term of imprisonment for a cannabis-related offense or per se cannabis offense on the effective date of this section.

(b) Pending charges.--Notwithstanding any other provision of law, any charge pending on the effective date of this section for which the existence of cannabis in the fact pattern is an element of the offense in question shall be dismissed.

(c) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Cannabis-related offense." A criminal offense for which the existence of cannabis is an element.

"Commute." The reduction of the length of a prison or parole sentence.

Section 4. Repeals are as follows:

(1) Section 4(1)(iii)16 and (iv) of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, are repealed.

(2) Section 13(a)(30) and (31) of The Controlled Substance, Drug, Device and Cosmetic Act are repealed insofar as they are inconsistent with this act.

(3) The act of April 17, 2016 (P.L.84, No.16), known as the Medical Marijuana Act, is repealed insofar as it is inconsistent with this act.

(4) All acts and parts of acts are repealed insofar as they are inconsistent with this act.

Section 5. This act shall take effect in 60 days.